IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 11.08.2006

CORAM:

THE HON'BLE MR.JUSTICE.S.RAJESWARAN

CRP(PD).No.1353 OF 2004

and

C.M.P.No.12860 of 2004

Uma Maheswari ... Petitioner

-Vs-

K.Babu ... Respondent

PRAYER: Civil Revision Petition against the order dated 02.04.2004 in I.A.No.1155 of 2003 in H.M.O.P.No.540 of 2001 on the file of the Family Court, Coimbatore.

For Petitioner : M/s.D.Shivakumaran
For Respondent : M/s.V.Chandrasekaran

O R D E R

This Civil Revision Petition has been filed against the order dated 02.04.2004 in I.A.No.1155 of 2003 in H.M.O.P.No.540 of 2001 on the file of the Family Court, Coimbatore.

2. The respondent/wife in H.M.O.P.No.540 of 2001 is the revision petitioner before this Court.

3. The H.M.O.P.No.540 of 2001 was filed by the husband/respondent herein for divorce. In that petition, the wife filed an application in I.A.No.1155 of 2003 seeking maintenance of Rs.5,000/- per month towards food, cloth and shelter. The said petition was resisted by the husband. However, the trial Court in due consideration of the facts and circumstances of the case, granted a sum of Rs.600/- per month payable by the husband to the wife towards maintenance. Aggrieved against that order the wife has filed the above Civil Revision Petition under Article 227 of the Constitution of India.

4. Heard the learned counsel for the revision petitioner and also the learned counsel for the respondent. I have also gone through the affidavit and documents filed in support of their submissions.

5. It is the case of the wife that the Family Court has committed grave error in granting an inadequate amount of Rs.600/- per month towards maintenance, when the amount sought for by her was

WEB COPY

https://hcservices.ecourts.gov.in/hcservices/

Rs.5,000/- per month. It is the further case of the wife that the Family Court has not taken into consideration, the monthly salary and also the other income of the husband while awarding the maintenance.

6. The learned counsel for the respondent, per contra contended that the respondent/husband has not been working for the last few years and finding difficult to make both ends meet. Besides that, he is also supporting the aged parents who are under constant medical treatment. On the other hand, he adds that the wife is leading a luxurious life having a car of her own. She is also getting substantial rental income and she has a fixed deposit of Rs.1,10,000/- in a Co-operative Society which fetches a monthly income by way of interest. Therefore, only to harass the husband, the petition has been filed for maintenance by the wife. Thus, it is the case of the husband that there is no merit in the contentions of the wife and the amount of Rs.600/- awarded by the Family Court itself was on the higher side.

7. I have given my careful consideration to the entire facts of the case. I have also gone through the petitions and the order in detail. The Family Court while considering the quantum of maintenance has gone into the documents filed by both the parties. For example, on the basis of the documents adduced before the Family Court, the Family Court has held that the husband was drawing a salary of Rs.2,000/- per month from an Auditor where he was working and he was not doing any permanent job getting a sum of Rs.10,000/- as alleged by the wife. It is also established before the Family Court that the husband was not getting any other additional income from any other source. The Family Court has also taken into consideration the ailment suffered by the father of the husband and the consequent hospitalisation and expenses incurred thereon. Therefore, considering the income and the other expenses of the husband, the Family Court has awarded a sum of Rs.600/- per month towards maintenance.

8. The learned counsel for the petitioner submits that the husband was drawing an attractive salary and the family court should have considered that aspect and awarded a minimum of at least Rs.1,200/- per month. However, there was no evidence produced in support of this contention. As seen from the order of the family court, only on the materials produced before it, the Family Court has rightly come to the conclusion a sum of Rs.600/- per month would be a reasonable sum towards interim maintenance.

9. Therefore in the light of what has been stated above, I do not find any illegality in the order passed by the Family Court and I do not propose to interfere with the order passed by the Family Court awarding a sum of Rs.600/- (per month) to the petitioner/wife payable by the respondent/husband towards monthly maintenance. Consequently, the Civil Revision Petition is dismissed. Further, since the H.M.O.P.

WEB COPY

https://hcservices.ecourts.gov.in/hcservices/

is of the year 2001, I direct the Family Court, Coimbatore to dispose of the H.M.O.P.No.540 of 2001 on merits within a period of four months from the date of receipt of a copy of this order. No costs. Consequently, connected C.M.P. is also dismissed.

sgl/sks

Sd/-
Asst. Registrar

//true copy//

Sub Asst.Registrar

To

The Judge, Family Court, Coimbatore.

+ one cc to Mr.V.Chandrasekaran, Advocate Sr.No.36067.

JP (CO)
RSM/8.9.2006

CRP(PD).No.1353 OF 2004

WEB COPY

https://hcservices.ecourts.gov.in/hcservices/